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FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of

Joint Application by BellSouth Corporation,
BellSouth Telecommunications, Inc.,
and BellSouth Long Distance, Inc. for
Provision of In-Region, InterLATA Services
in Georgia and Louisiana

CC Docket No. 01-277 /

To: The Commission

**REPLY IN SUPPORT OF APPLICATION BY BELL SOUTH FOR PROVISION
OF IN-REGION, INTERLATA SERVICES IN GEORGIA AND LOUISIANA**

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INTRODUCTION AND EXECUTIVE SUMMARY

After years of hard work and based on extensive first-hand experience, both the Georgia Public Service Commission (“GPSC” or “Georgia PSC”) and the Louisiana Public Service Commission (“LPSC” or “Louisiana PSC”) enthusiastically support this Joint Application. After considering and rejecting many of the same arguments raised in this proceeding, both those objective state regulatory bodies, as well as their professional staffs, confirm that BellSouth’s Application meets every last requirement of the Telecommunications Act of 1996 (“1996 Act”) and is strongly in the interest of the citizens of Georgia and Louisiana. As the GPSC states in its comments, “[b]y every measure,” efforts to introduce local competition have been successful in Georgia, and “BellSouth has irrevocably opened its local market in Georgia to competition.” *GPSC Comments* at 222. The LPSC similarly stresses that, based on its “exhaustive and rigorous investigation and analysis,” it fully “endorse[s]” this Application as consistent with all legal requirements. *LPSC Evaluation* at 1.

Dozens of other commenters also support this Application. Because section 271 approval will result in hundreds of millions of dollars in savings for end-users, those supporters unsurprisingly include many groups that represent a wide range of consumer interests,¹ as well as a large number of elected officials. Two CLECs with first-hand experience dealing with BellSouth (NewSouth and BTI Telecom) also support this Application. NewSouth states unequivocally that BellSouth is providing it with a “meaningful opportunity to compete in Georgia and Louisiana.” *NewSouth Comments* at 7. NewSouth further explains that it has seen

¹ These groups include, among many others, the National Consumers League, the National Grange (which represents rural interests), the NAACP – Southeast Region, the National Urban League, the New Orleans Regional Chamber of Commerce, American Foundation of the Blind, and the League of United Latin American Citizens.

“dramatic improvements in BellSouth’s performance during the past year,” and that BellSouth’s OSS “have become appreciably more efficient and effective.” *Id.* at 3-4. BTI Telecom similarly singles out BellSouth’s OSS for praise. BTI states both that “BellSouth’s OSS is largely mechanized and has seen steady improvement over time,” and that “BellSouth’s ability to handle orders that require manual intervention has also seen steady improvement.” *BTI Telecom Comments* at 2.

These comments confirm what the competition and performance numbers for both Georgia and Louisiana already demonstrate – BellSouth’s markets are plainly and irreversibly open. Indeed, in the past few months, competition in these states has accelerated even more rapidly. In Georgia, CLECs added more than 45,000 lines in two months using the UNE-P, which by any standard is torrid competition. *See BellSouth Stacy/Varner/Ainsworth Joint Reply Aff.* ¶ 9 (Reply App., Tab P). The story in Louisiana is similar: CLECs have gained almost an additional 2% of BellSouth’s market since the beginning of the year. *See BellSouth Stockdale Reply Aff.* ¶ 8 (Reply App., Tab Q). These rapid CLEC gains “bear out the fact that [BellSouth] has made extensive efforts to open its local markets in compliance with the requirements of the Act.”²

Indeed, even the Department of Justice (“DOJ”) acknowledges that competitors have made substantial inroads in Georgia and Louisiana. DOJ states that BellSouth has made “significant progress” in opening its markets. *DOJ Evaluation* at 1-2. DOJ further concludes that BellSouth’s market is “*fully and irreversibly open*” as to both facilities-based entrants and resellers in Georgia and Louisiana. *Id.* at 38 (emphasis added).

² Memorandum Opinion and Order, *Application of Verizon New England Inc., et al., for Authorization to Provide In-Region, InterLATA Services in Massachusetts*, 16 FCC Rcd 8988, ¶ 3 (2001) (“*Massachusetts Order*”).

Although DOJ expresses concern about certain issues relating to UNE entry, it fully acknowledges that this Commission could find, on a more complete record, that these issues have been addressed. This reply brief and the attached affidavits will demonstrate in detail why the record as a whole, including material not reviewed by DOJ, compels just such a finding.

Several points are worth noting at the outset. First, notwithstanding DOJ's conclusion, BellSouth in fact faces significant UNE competition. As noted above, in Georgia alone, BellSouth provisioned enough UNE-Ps in two months for CLECs to increase their total UNE-Ps in service by more than 45,000. By way of comparison, DOJ previously concluded that the processing of 40,000 new UNE-P orders in one month in Texas demonstrated "encouraging" signs of competition.³ Since SBC has more than twice as many access lines in Texas as BellSouth does in Georgia, it is at best unclear why DOJ has reached a different conclusion here.⁴

Moreover, if the issues discussed by DOJ actually created a substantial competitive concern, resellers and facilities-based providers would also be affected significantly. Resellers and facilities-based providers use the same OSS as UNE-based providers for the ordering and provisioning of services and for local number portability, among other things. Accordingly, they too would be harmed by the supposed instability of BellSouth's OSS, by any alleged over-

³ *Ex Parte* letter from Donald J. Russell, Antitrust Div., DOJ, to Magalie Roman Salas, Secretary, FCC, at 17, CC Docket No. 00-65 (filed June 13, 2000).

⁴ BellSouth has approximately four million access lines in Georgia, and SBC has nearly nine million access lines in Texas. See FCC ARMIS Database 2000, 43-08, at <http://www.fcc.gov/ccb/armis/>. Moreover, BellSouth has nearly as many UNE-Ps in service as Southwestern Bell had in Texas at the time of its filing. According to Attachment A to the supplemental reply affidavit of John Habeeb in the Texas proceeding, SBC had provisioned 243,900 UNE-Ps; BellSouth has provisioned at least 190,000. See *BellSouth Stockdale Reply Aff.* ¶ 10 n.5.

reliance on manual processes, and by any alleged service order accuracy problems. If there were actually significant deficiencies in these areas, the market could not be “fully and irreversibly open” for facilities-based competitors and resellers, as DOJ has expressly – and properly – found that it is.

DOJ’s concerns are based on *assertions* made in CLEC comments. Both the GPSC and the LPSC, by contrast, relied on years of experience opening these particular markets to competition and evaluated these same CLEC assertions with the benefit of both first-hand experience and a full BellSouth rebuttal. Many of the assertions relied upon by DOJ are simply untrue; some are based on misunderstandings of the state commission-ordered performance measurements; others hold BellSouth to obligations that this Commission has expressly rejected as conditions for 271 approval; many were investigated and expressly rejected by the state commissions; and yet others were not even raised before those state commissions.

With their knowledge of actual market conditions and after years of investigation, the state commissions were able to see through these assertions, to the extent they were even raised. For instance, DOJ relies (at 21) on WorldCom’s assertion that 3% of its UNE-P orders lose dial-tone or lose the ability to receive calls upon conversion. WorldCom derives that figure, however, only by improperly counting as conversion-related outages that occur up to 30 days after conversion. If one considers outages that occur within a tighter, but still conservative time period (three business days before conversion, and five after), the figure drops enormously, to less than 0.5%; it drops even further when WorldCom’s assertions are measured against BellSouth’s records. *See BellSouth Ainsworth Reply Aff.* ¶ 76 (Reply App., Tab A). It is thus not surprising that the GPSC found that the instances of lost dial-tone were “isolated occurrences.” *GPSC Comments* at 135. Similarly, DOJ relies on Covad’s claims to support the

notion that xDSL loops cannot be ordered electronically. In fact, 83% of xDSL loop orders submitted region-wide between June and August 2001 were capable of being ordered electronically. See *BellSouth Stacy Reply Aff.* ¶ 227 (Reply App., Tab O). In yet another example, the sole evidentiary support that DOJ provides for the notion that BellSouth's testing environment is not sufficiently separate, *DOJ Evaluation* at 27, is WorldCom's claim that 1,500 production messages were sent to its test environment. In fact, there is no evidence to support that claim. BellSouth investigated this complaint when it was made, found no evidence that this misrouting occurred, and contacted WorldCom about that fact more than a month ago. WorldCom has yet to respond. See *BellSouth Stacy Reply Aff.* ¶¶ 107-108. There are many more such examples of CLEC claims that lack substance, but which are cited in the DOJ Evaluation as if they were true.

Below, and in the affidavits that are attached to this reply brief, BellSouth will address all of those erroneous assertions as well as all of the other arguments raised by the long-distance incumbents and other CLECs. The CLEC comments here confirm the truth of what Chairman Powell has said: no matter the competitive and performance evidence, "[t]here will never be a 271 . . . to which there will not be a community of competitive entrants . . . like AT&T who will not scream that it was premature. Why? Because as far as they're concerned entry will never be right."⁵ In fact, however, the time is right today for long-distance competition in Georgia and in Louisiana. Given the significant evidence of real competition and nondiscriminatory performance, there is no reason for the consumers of Georgia and Louisiana to pay tens of

⁵ Powell Defends Stance on Telecom Competition, *Communications Daily*, May 22, 2001.

millions of dollars every month more for telecommunications service than they should. This Application should be granted.

* * * * *

Part I below demonstrates that there is significant competition, including substantial UNE-based competition, in Georgia and Louisiana, and that competition has accelerated at an even faster pace over the last few months; accordingly, no party disputes BellSouth's compliance with Track A. Part II demonstrates that the state-approved and independently validated performance measures on which BellSouth relies are trustworthy, as both the LPSC and the GPSC have expressly found, and that specific complaints about performance data are inaccurate or simply reflect BellSouth's commitment to make public errors that are inevitable in producing massive performance reports. Part III addresses the OSS issues as to which DOJ and other commenters have expressed concern. Part IV explains that, contrary to the arguments of AT&T and WorldCom, both the LPSC and the GPSC applied TELRIC principles consistently in setting rates. Part V addresses loop concerns. Part VI demonstrates that no commenter has raised a significant issue as to whether this Application is in the public interest. Finally, Part VII shows that none of the other checklist issues that have been raised here, often by just one or two commenters, provides a basis to overturn the judgment of the state commissions and deny the benefits of competition to the consumers of Georgia and Louisiana.

I. LOCAL COMPETITION IN GEORGIA AND LOUISIANA IS THRIVING AND IS EASILY SUFFICIENT TO SATISFY TRACK A

No commenter disputes that BellSouth satisfies the requirements of Track A, as those requirements have been spelled out by this Commission.⁶ Nor could they. Local competition is in fact thriving in Georgia and Louisiana. Using methodologies previously approved by both the DOJ and this Commission, *see BellSouth Stockdale Reply Aff.* ¶ 10, BellSouth's Application established that, at the time of the Application, CLECs were serving a substantial portion of the residential and business markets in both Georgia and Louisiana. *See BellSouth Wakeling Aff.* Tables 1-4 (Application App. A, Tab V). Those impressive numbers, moreover, have continued to grow. In Georgia, CLECs were serving more than 17% of the local market in Georgia, including at least 28% of the business lines in the state, as of September of this year. *See BellSouth Stockdale Reply Aff.* ¶ 8. In Louisiana, where CLECs served between 6.8% and 7.5% earlier this year, they were serving approximately 9% of the total market, including between 16.8% and 19.5% of the business lines in the state, in September. *Id.*

A substantial amount of that competition is provided over CLECs' own facilities. *See BellSouth Wakeling Aff.* ¶¶ 16, 20. That is an important fact because, as this Commission has explained, substantial facilities-based competition indicates that entry is "irreversible." *See Fifth Report and Order and Further Notice of Proposed Rulemaking, Access Charge Reform*, 14 FCC Rcd 14221, ¶ 80 (1999), *aff'd*, *WorldCom, Inc. v. FCC*, 238 F.3d 449 (D.C. Cir. 2001). At the same time, however, a significant portion of the competition is UNE-based. Indeed, CLECs in Georgia now serve more than 190,000 lines over UNE-P, which represents an increase of more

⁶ One commenter contends that BellSouth fails to satisfy Track A because it has not complied with the competitive checklist. *See Cbeyond Comments* at 4. Track A, however, is independent from the competitive checklist, which in any event BellSouth has in fact satisfied.

than 30% from July of this year. *See BellSouth Stockdale Reply Aff.* ¶ 10 n.5; *see also id.* ¶ 28 (noting increases in the number of CLECs using UNE-P on a widespread basis in Georgia and Louisiana). In light of this actual market evidence, it is beyond legitimate dispute that CLECs have access to the services and facilities they need to compete in the local market, and that they are using that access to sign up customers at a rapid clip.

A few commenters – in particular AT&T – dispute these aggregate competitive numbers, contending that BellSouth’s methodologies for estimating CLEC line totals are inaccurate. *See AT&T Gillan Decl.* ¶¶ 7-8. Significantly, however, AT&T does not challenge the line totals that BellSouth attributed to AT&T in its Application. That silence is telling. BellSouth’s aggregate line estimates are merely the sums of the line totals that it attributes to individual carriers. In light of AT&T’s failure to dispute those individual totals, its challenges to the aggregate totals ring hollow.⁷

Moreover, BellSouth’s estimates are fully consistent with – indeed, are conservative when compared to – the line totals reported by the CLECs themselves. Attached to the reply affidavit of Elizabeth Stockdale is an exhibit (ES-9) that charts BellSouth’s estimates against the line totals reported by this Commission (in its May 2001 *FCC Local Competition Report*⁸) and by the GPSC (in its October 2001 *Local Service Indicators Report*⁹). Both the FCC and the

⁷ Unlike AT&T, Sprint does challenge the line counts attributed to it in BellSouth’s Application. Contrary to Sprint’s characterization, however, the discrepancy results from Sprint’s entry of records into the E911 database, and the fact that it has not released the related numbers. *See BellSouth Sapp Reply Aff.* ¶ 6 (Reply App., Tab M).

⁸ *See* Industry Analysis Div., Common Carrier Bureau, FCC, *Local Telephone Competition: Status as of December 31, 2000* (May 2001).

⁹ *See Local Service Indicators Report*, Docket No. 5778-U (GPSC Oct. 4, 2001) (GPSC Comments App. A).

GPSC reports are based on the *self-reported* data of a *subset* of CLECs doing business in Georgia and Louisiana. *See BellSouth Stockdale Reply Aff.* ¶ 12. Yet, in all cases, BellSouth's data – which account for *all* CLECs with more than ten lines in Georgia and Louisiana – are either comparable to, or conservative when compared to, the self-reported CLEC data. *See id.* ¶ 14 & Exh. ES-9. AT&T's contention that BellSouth exaggerates the extent of local competition in Georgia and Louisiana is thus incorrect.¹⁰

II. BELLSOUTH'S PERFORMANCE MEASURES ARE ROBUST AND RELIABLE

In light of the substantial competitive presence of CLECs in Georgia and Louisiana, BellSouth's Application relies primarily on the company's actual commercial experience providing services and facilities to its CLEC customers. That commercial experience is reflected in performance measures that have been and continue to be independently replicated by third-party audits, that are subject to continuing review by both the GPSC and the LPSC, that are based on data that CLECs can and do scrutinize carefully, and that provide this Commission with all the information that it needs to verify BellSouth's compliance with the competitive checklist.

Some commenters dispute that contention, on the theory that many of BellSouth's measures are not properly designed, and others of them have been improperly implemented. *See, e.g., AT&T Bursh/Norris Decl.* ¶¶ 36-75; *WorldCom Comments* at 47-48. In the first place, however, this is simply the wrong forum in which to press these concerns. Both the Louisiana and Georgia PSCs have established six-month review processes to address precisely these sorts of issues. *See BellSouth Varner Reply Aff.* ¶ 124 (Reply App., Tab S). The comprehensive,

¹⁰ The CLEC self-reported data reflected in this Commission's and the GPSC's reports also refute AT&T's minutes-of-use-based line estimate. *See BellSouth Stockdale Reply Aff.* ¶ 13 & Exh. ES-9. That estimate in any event suffers from numerous methodological flaws. *See id.* ¶¶ 15-18.

collaborative reviews called for by these state commissions are plainly the best fora for considering modifications to BellSouth's existing measures.¹¹

Indeed, the vast majority of commenters claims have *already* been resolved by the Georgia and Louisiana PSCs. Thus, for example, recycling a claim that it has made and lost on four separate occasions, *see BellSouth Varner Reply Aff.* ¶ 134, AT&T complains that BellSouth's hot-cut measures are "inherently deficient" because they purportedly fail to track "the time that the cut actually commenced." *AT&T Bursh/Norris Decl.* ¶ 72. But the truth is that BellSouth's hot cut measures "*completely* gauge BellSouth's overall performance before, during, and after" the cut, leading the Georgia and Louisiana PSCs to conclude that those measures were amply sufficient to support the conclusion that BellSouth provides nondiscriminatory hot cuts. *BellSouth Varner Reply Aff.* ¶¶ 134-136 (emphasis added). Likewise, AT&T's complaint that BellSouth excludes non-business hours from its FOC timeliness and reject interval measures for partially mechanized local service requests ("LSRs"), *see AT&T Bursh/Norris Decl.* ¶¶ 40-43, founders on the simple fact that the GPSC's adoption of BellSouth's SQM over AT&T's identical objection necessarily endorsed this precise exclusion, *see BellSouth Varner Reply Aff.* ¶¶ 147-148. Time and again, AT&T raises challenges to the design and implementation of BellSouth's measures that have already been raised and resolved by the Georgia and Louisiana PSCs. *See id.* ¶¶ 129-171. In doing so, AT&T does not even bother to note that these challenges have already been rejected, much less explain why those challenges should be rehashed here. As the reply affidavit of Alphonso Varner explains, there is no reason to do so.

¹¹ See Memorandum Opinion and Order, *Application by SBC Communications Inc., et al., Pursuant to Section 271 of the Telecommunications Act of 1996 To Provide In-Region, InterLATA Services in Texas*, 15 FCC Rcd 18354, ¶ 438 (2000) ("Texas Order").

Nor is there any basis to the suggestion that the data reported by BellSouth are unreliable. *See, e.g., Covad Comments* at 39; *Birch Telecom Comments* at 12-15. As BellSouth explained in its Application, its performance data have been, and continue to be, validated by comprehensive independent third-party reviews by KPMG. The first two of these reviews examined fully 85% of the 75 performance measures (before disaggregation) in the SQM, and replicated 98% and 95% of BellSouth's results, respectively. *See BellSouth Varner Ga. Aff.* ¶ 432 (Application App. A, Tab U); *see generally id.* ¶¶ 38, 387-431. In addition, both the Georgia and Louisiana PSCs have committed themselves to ongoing review of BellSouth's data, including an independent third-party audit. *See LPSC Evaluation* at 5-6; *GPSC Comments* at 129-30. It is precisely that commitment that, in past applications, has given this Commission confidence in the reporting plans implemented by Bell companies. *See Memorandum Opinion and Order, Application by Bell Atlantic New York for Authorization Under Section 271 of the Communications Act To Provide In-Region, InterLATA Service in the State of New York*, 15 FCC Rcd 3953, ¶ 442 (2000) ("*New York Order*") ("We note with approval that the performance data used in the enforcement mechanism in New York appears to be subject to regular scrutiny."); *Massachusetts Order* ¶ 247 ("The Massachusetts Department has ordered Verizon to obtain an independent audit," and "the audit will be subject to the Massachusetts Department's review.").

Moreover, both the Georgia and Louisiana commissions – the two regulatory bodies most intimately involved with the development of BellSouth's measures and the reporting of its data – have authoritatively reconfirmed the reliability of BellSouth's data. In the words of the GPSC, BellSouth's "performance data . . . has been and continues to be the subject of regular scrutiny," including third-party "replication effort[s] . . . under the Commission's direction." *GPSC Comments* at 221. This scrutiny "provide[s] reasonable assurance that the data will be reported

in a consistent and reliable manner.” *Id.* (quoting *New York Order* ¶ 441). Likewise, “it is the Louisiana Commission’s opinion that BellSouth has sufficiently refuted . . . AT&T’s allegations concerning the integrity of the performance data that BellSouth has filed and upon which it relies.” *LPSC Evaluation* at 30.¹²

A number of commenters dispute those conclusions.¹³ As an initial matter, however, it is important to emphasize that these challengers fundamentally misstate the standard to which a BOC’s data are held in the 271 context. While a BOC’s data generally must be “meaningful, accurate, and reproducible,”¹⁴ it need not be – indeed, cannot be – perfect. The Commission has stressed that the critical questions are whether the reporting plan “includes review and monitoring mechanisms that assure the data will be reported in a consistent and reliable manner,” whether the BOC will undergo “an independent audit of [its] data and reporting” on an ongoing basis, and whether the state commission itself remains committed to ensuring the validity of the reported data.¹⁵ The KPMG reviews and independent third-party audit discussed above, coupled

¹² AT&T – through its declarant David Eppsteiner – seeks to diminish the authority of the LPSC to speak to BellSouth’s performance by questioning its “commitment to local competition.” *See AT&T Eppsteiner Decl.* ¶ 18. But, as the reply affidavits of John Ruscilli/Cynthia Cox and Alphonso Varner explain, Mr. Eppsteiner’s allegations rest entirely on incomplete and inaccurate characterizations of the many LPSC proceedings that led to this Application. *See BellSouth Ruscilli/Cox Reply Aff.* ¶ 11 (Reply App., Tab L); *BellSouth Varner Reply Aff.* ¶¶ 125-128. Indeed, as the LPSC itself has demonstrated through its comprehensive implementation of the 1996 Act – as well as its extensive participation in this proceeding – its commitment to local competition is firm. *See, e.g., LPSC Evaluation* at 1-12.

¹³ *See Birch Telecom Comments* at 12-15; *AT&T Bursh/Norris Decl.* ¶¶ 101-102.

¹⁴ *Texas Order* ¶ 428.

¹⁵ *E.g., Massachusetts Order* ¶ 247; *see Memorandum Opinion and Order, Application by Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138, FCC 01-269, App. C, ¶ 131 (rel. Sept. 19, 2001) (“*Pennsylvania Order*”).

with the unequivocal commitment of both the Georgia and Louisiana PSCs to continue monitoring BellSouth's performance data, easily satisfy those standards.

It is also important to emphasize that these CLEC complaints were never raised in the appropriate forum for doing so. BellSouth has been reporting data regularly in Georgia for more than three years. As the GPSC explains, for that entire time, it has had a mechanism in place to permit interested parties to raise any and all concerns they may have with respect to BellSouth's data. *See GPSC Comments* at 133. Yet not once has any of the commenting parties sought to take advantage of these procedures. *Id.* This Commission should be highly skeptical of efforts to raise here concerns that could have been – and still can be – raised and resolved before the state commission. *Cf. New York Order* ¶ 438 (“While commenters raise concerns about the details of a handful of specific metrics, we note that many of these issues are currently being considered in the ongoing . . . proceeding in New York.”) (footnotes omitted).

In any event, the data integrity issues raised by commenting parties are insubstantial. In many of these cases, CLECs simply have their facts wrong. For instance, certain CLECs allege that data underlying BellSouth's measures “are missing from the PMAP and the raw data underlying these reports.” *El Paso, et al. Comments* at 22. That is untrue. The data at issue – which pertain to NuVox – are in fact available on the PMAP web site. *See BellSouth Varner Reply Aff.* ¶ 22. To be sure, those data were not available in aggregate figures for NuVox's OCN for a short period of time, but that is due to NuVox's failure to provide BellSouth with timely notification of its recent merger. *Id.* Similarly, a few CLECs contend that various performance measures that should report consistent volumes do not in fact do so. *See Birch Telecom Comments* at 9-11; *AT&T Bursh/Norris Decl.* ¶ 112. A comparison of volumes across measures is indeed a helpful check on the integrity of BellSouth's data, but it is imperative that the

comparison be done with a proper understanding of the relevant business rules. And, as the reply affidavit of Alphonso Varner explains, armed with such an understanding, it is clear that BellSouth's volumes do in fact match up across its measures. *See BellSouth Varner Reply Aff.* ¶¶ 43-50. As the GPSC explains, "many of Covad's concerns about the 'integrity' of BellSouth's performance data appear to be attributable to an apparent lack of familiarity with BellSouth's SQM," and "[t]he same is true for many of AT&T's 'data integrity' issues." *GPSC Comments* at 132. The GPSC's judgment on this question, moreover, is worthy of considerable deference. *See New York Order* ¶ 51 ("We will look to the state to resolve factual disputes wherever possible.").¹⁶

Equally infirm is the suggestion that, because KPMG has not yet reviewed each and every metric, reliance on BellSouth's data would be "premature." *See AT&T Bursh/Norris Decl.* ¶¶ 14-30. The Commission has never suggested that performance measure validation as to every last submetric (of which there are over 2,200 in BellSouth's SQM) is a prerequisite to 271 relief, nor has it hinted that each and every third-party recommendation must be implemented before a BOC's data can be considered reliable. On the contrary, the Commission has recognized that performance integrity is an ongoing obligation that cannot be – indeed, should not be – conclusively resolved at any one point. *See, e.g., Texas Order* ¶¶ 57, 429 ("reject[ing] the contention that SWBT's data are generally invalid because they have not been audited," and instead noting with approval that Southwestern Bell "ha[d] agreed to implement" in the future several recommendations made by the independent auditor). The vast majority of BellSouth's

¹⁶ AT&T alleges that the access BellSouth provides to its raw data files is in "clear defiance of two GPSC orders." *AT&T Bursh/Norris Decl.* ¶ 94. That is untrue. BellSouth's provision of its raw data files is fully consistent with the GPSC's orders, *see BellSouth Varner Reply Aff.* ¶¶ 26-29, and its instructions to CLECs on how to use those files are unprecedented, *see id.* ¶¶ 75-77; *see also BellSouth Varner Ga. Aff.* ¶ 24.

performance measures have been validated and the remainder are now under review. Under the standards that have guided this Commission's review in the past, there is ample assurance that BellSouth's data are reliable.

Nevertheless, commenters make much of the fact that BellSouth has itself disclaimed reliance on two discrete measurements – those tracking FOC and reject response completeness (for May through July 2001) and average jeopardy notice interval – because of questions surrounding their implementation. *See, e.g., AT&T Bursh/Norris Decl.* ¶ 101. As an initial matter, however, the allegation that these questions raise overarching data integrity issues is simply false. As Alphonso Varner has explained, BellSouth did not rely on these measures because of unique problems. *See BellSouth Varner Ga. Aff.* ¶¶ 41-50; *BellSouth Varner Reply Aff.* ¶ 93. And in any event, the fact that BellSouth itself identified and revealed the flaws in the way these measures operated, and determined that they should not be relied upon, should provide *more* assurance as to BellSouth's commitment to providing reliable data.

Nor is there any support for commenters' transparent attempt to bootstrap BellSouth's corrections to its flow-through data to the conclusion that BellSouth's data generally "cannot be trusted." *Birch Telecom Comments* at 13. For one thing, there is nothing new about a BOC restating corrected data – each BOC with 271 approval has done so in the past.¹⁷ The difference here, if any, is that, rather than merely restating corrected data, BellSouth has *refiled* it with both federal and state regulators, and has done so every single time there has been any change at all in

¹⁷ *See, e.g., Arkansas Affidavit of William R. Dysart* ¶ 46, *Joint Application of SBC Communications Inc., et al., for Provision of In-Region, InterLATA Services in Arkansas and Missouri*, CC Docket No. 01-194 (FCC filed Aug. 20, 2001); *Reply Affidavit of Elaine M. Guerard, Julie A. Canny, and Marilyn C. DeVito* ¶ 33, *Application by Verizon Pennsylvania Inc., et al., for Authorization To Provide In-Region, InterLATA Services in Pennsylvania*, CC Docket No. 01-138 (FCC filed Aug. 6, 2001).

its reported data. That effort – which BellSouth has undertaken for the sole purpose of fairness and allowing maximum visibility for all data revisions, no matter how minor – only underscores BellSouth’s commitment to providing regulators all the tools they need to assess BellSouth’s performance. In any event, these commenters vastly overstate the significance of these restatements. As Mr. Varner explains, the restatements were necessary to ensure that this Commission and interested parties have access to the most accurate data possible. *See BellSouth Varner Reply Aff.* ¶¶ 33-35. At the same time, however, the corrections were, as a general matter, insignificant. The restated aggregate flow-through performance for June changed 0.14% from what was filed with the Application, July changed 3.96%, and August changed 4.08%. *See Ex Parte* letter from Jonathan Banks, BellSouth, to Magalie Roman Salas, Secretary, FCC, Attach. at 3 (filed Oct. 25, 2001); *BellSouth Varner Reply Aff.* ¶ 31. And, again, it was BellSouth that – through its own vigilance – recognized the need for these corrections and brought them to the attention of all interested parties. Far from undermining this Commission’s faith in BellSouth’s data, this episode merely underscores BellSouth’s commitment to accurate and reliable data.

In sum, aside from BellSouth’s extreme vigilance in notifying the Commission each and every time there has been any correction at all to any of its reported data, there is simply nothing at all unusual about this Application, or the data upon which it relies. As in prior cases, “[t]o a large extent, . . . the accuracy of [the] performance data . . . is not contested.” *Texas Order* ¶ 57. There is therefore no reason to deviate from the Commission’s normal rule of addressing those data disputes that do exist in the course of the Commission’s “checklist analysis.” *Id.* It is to that analysis that we now turn.